

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

SHIRON DAVIS,

Petitioner,

v.

STATE OF OKLAHOMA,

Respondent.

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Case No. CIV-20-1109-SLP

ORDER

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Amanda Maxfield Green [Doc. No. 10]. Judge Green recommended that Petitioner's Application for Leave to Proceed In Forma Pauperis [Doc. No. 9] be denied and that he be required to pay the \$5.00 filing fee because he has sufficient funds in his institutional accounts. In his Objection, Petitioner does not take issue with the recommendation that he be required to pay. Rather, Petitioner asserts these are "compelled savings" not at his disposal. He asks for the Court to order his facility to pay the filing fee out of these savings.

It appears Petitioner is referencing funds in his mandatory savings account. Oklahoma law, however, allows inmates to withdraw funds from this account to pay fees under 28 U.S.C. § 1911, *et seq.* See Okla. Stat. tit. 57, § 549(A)(5). Additionally, the relevant policy states that funds from an inmate's mandatory savings account "may be used to pay fees and/or court costs associated with filing a civil or criminal action." Okla. Dep't of Corr., Offender Banking System, OP-120230(I)(A)(2) (eff. June 19, 2020),

<https://oklahoma.gov/content/dam/ok/en/doc/documents/policy/section-12/op120230.pdf>.

The policy further instructs that funds from this account may be used to pay fees


either by submitting an in forma pauperis' [*sic*] action as defined by federal and state statute or by receiving written documentation from the court clerk showing the amount required to file the case. If written documentation from a court clerk is provided, a staff member will call the court clerk's office to verify fees. The staff member will sign and print their name and the date on the court clerk's documentation. Court clerk documentation may be in the form of a letter or any other official form that can be verified by staff.

Id.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 10] is ADOPTED and Petitioner's Application for Leave to Proceed In Forma Pauperis [Doc. No. 9] is DENIED.

IT IS FURTHER ORDERED that the Court Clerk is DIRECTED to provide Petitioner with three copies of this Order and three copies of the Report and Recommendation [Doc. No. 10]. Petitioner may distribute these documents to the custodian of his institutional account(s). Petitioner shall pay the \$5.00 filing fee not later than February 4, 2021. Petitioner is advised that if he fails to timely pay the filing fee, this action shall be dismissed without prejudice.

IT IS SO ORDERED this 14th day of January, 2021.


SCOTT L. PALK
UNITED STATES DISTRICT JUDGE